

OPENING STATEMENT OF REP. EDWARD J. MARKEY (D-MA)
HOUSE ENERGY AND COMMERCE COMMITTEE MARKUP OF ANTI-TERRORISM
LEGISLATION
WEDNESDAY, OCTOBER 3, 2001

Thank you, Mr. Chairman.

Today the Committee takes up three bills that seek to respond to this nation's need to better protect itself against the terrorist threat.

Back during the Cold War, there was a professor named Herman Kahn who wrote a very famous book about nuclear war. It was called "Thinking the Unthinkable." And in this book, Professor Kahn walked through all the various scenarios in which the United States and the Soviet Union might involve themselves in military conflict from minor skirmishes all the way up to full-scale thermonuclear war (which he dubbed a "Wargasm"). And fortunately, we were able to get through the Cold War without actually having to experience any of the "unthinkable" worst-case possibilities that Kahn and other military theorists posited.

But now we have entered a new era in which we are facing a terrible new threat, a threat that just a few weeks ago most Americans would have considered "unthinkable." The World Trade Towers have been destroyed. The Pentagon has been attacked. And were it not for the heroism of its passengers, the plane that crashed in Pennsylvania might have hit the Capitol building or the White House itself.

All of these horrible events now compel us to "think the unthinkable" and to contemplate what we as a nation need to do to protect critical infrastructure from terrorist attack. Today, we are taking up three bills aimed at doing this, but I would hope that this action will mark the beginning, not the end of this Committee's response to the events of September 11th.

With respect to the NRC legislation, my view is that the proposals in this bill, while quite necessary and overdue, are insufficient by themselves as a legislative response to the terrorist threat to civilian nuclear power plants. As terrible as the attacks of September 11th were, a successful terrorist assault on a nuclear power plant could result in a full scale nuclear core meltdown and breach of reactor containment that could result in countless more deaths and injuries. That is why for over a decade, I have been fighting to get the NRC and the nuclear industry to take the terrorist threat more seriously. During this period, the Commission has consistently dragged its feet in upgrading the so-called "Design Basis Threat" that establishes what licenses are being asked to defend against. The Commission once even tried to kill the program aimed at testing security forces at the plants, and continues to consider replacing this program with one that would be design and executed by the nuclear utilities industry. During today's markup, I intend to offer a series of amendments to strengthen the laws affecting nuclear power plant security. I hope my colleagues will support them.

I also want to comment briefly on the amendments to the Communications Act. These amendments clarify the obligations of multi-channel video programming distributors when addressing government access to subscriber information. I want to thank the Chairman for moving this clarification expeditiously through the Committee.

Simply put, the amendments will modify Section 631 of the Communications Act to stipulate that when the government wants access to records relating to the selection of video programming by subscribers that such access will be governed pursuant to Section 631(h). As cable operators and other multi-channel video programming distributors offer more than cable service and increasingly offer a range of various

telecommunications services, it is important that law enforcement authority to obtain subscriber information garnered from such additional services is clear and that industry obligations are uniform. Accordingly, access to subscriber information gleaned from such services can be obtained by governmental entities utilizing the appropriate provisions of Title 18. These Title 18 provisions govern the interception and disclosure of wire and electronic communications and apply to all telecommunications carriers and Internet service providers.

These amendments do not in any way address access to, or disclosure of, subscriber records by non-governmental entities. These amendments are intended simply to increase clarity for law enforcement purposes.

I also would like to address the amendments to the Antiterrorism and Effective Death Penalty Act. This is not the first time that our nation has turned its attention to the issue of bioterrorism. You may recall that in 1995 a self-proclaimed white supremacist by the name of Larry Wayne Harris was caught by the FBI with several vials of bubonic plague in the glove box of his car. He had ordered the three pure strains of bacteria through the mail. This was the very same bacteria that wiped out one-third of the population of 14th Century Europe. His penalty -- probation for a single charge of wire fraud. It was the 1995 incident that inspired me to get together with my good friend John Kasich in introducing the "Biological Weapons Control Act of 1996" a bill which imposed requirements for the transfer of select agents. It is this bill that was ultimately included in the underlying bill that we are amending today. These requirements were an important first step in addressing the threat of undesirables easily accessing these tiny organisms which have huge potential for wreaking havoc. Today, we take one more step in protecting our nation from bioterrorism by closing a loophole in the current law which allowed facilities which do not transfer these agents to remain unregistered essentially anonymous. I would like to thank the Committee for including my language that will require the Secretary of HHS to report back to Congress the rate of registration compliance with respect to all facilities that possess, use or transfer special agents. It's become clearer than ever before that our nation must make domestic security a top priority and this will require constant and consistent study and reassessment of our policies of protection.

Thank you again, Mr. Chairman, for calling today's markup. I look forward to working with you, Ranking Member Dingell, and other Members on this important legislation.